

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**  
**DIVISION II**

CORNELL HOHENSEE,

Appellant,

v.

CLALLAM COUNTY COMMISSIONERS  
STEPHEN P. THARINGER, MICHAEL C.  
CHAPMAN, HOWARD V. DOHERTY JR.,  
SELINDA BARKHUIS, RICH SILL, DOES 1,  
2, 3, 4, 5, 6, 7, 8, 9, 10,

Respondents.

No. 40112-6-II

UNPUBLISHED OPINION

Worswick, A.C.J. — The trial court dismissed Cornell Hohensee’s complaint against various Clallam County Commissioners Stephen Tharinger, Michel Chapman, Howard Doherty, Selinda Barkhuis, Rich Sill, Does 1 through 10 (respondents), because Hohensee failed to join Clallam County, a necessary and indispensable party. It also awarded attorney fees and costs to the respondents. Hohensee appealed. We affirmed in an unpublished opinion on February 24, 2009, under cause number 37654-7-II, and awarded the respondents their attorney fees and costs on appeal. On April 14, we denied Hohensee’s motion for reconsideration. On May 14, Hohensee filed a petition for review by our Supreme Court. The respondents filed an answer to that petition on July 7, 2009, and requested attorney fees for answering the petition. On

September 29, our Supreme Court issued an order stating “[t]hat the Petition for Review is denied and the Respondent’s request for attorney fees is denied.” Appellant’s Br., Ex. A. On October 26, our commissioner issued a ruling, based on our February 24, 2009 opinion, awarding the respondents \$4,062.50 in attorney fees and costs on appeal. We issued our mandate on October 27, maintaining that award of attorney fees and costs on appeal. The trial court entered a judgment on November 13, in favor of respondents and against Hohensee, for the \$4,062.50 in attorney fees and costs awarded by this court, plus \$200 in statutory attorney fees. On November 24, the trial court denied Hohensee’s motion to reconsider. Hohensee now appeals the entry of the judgment against him. We affirm.<sup>1</sup>

#### FACTS

Hohensee’s argument appears to be that because, in denying his petition for review our Supreme Court ordered that “the Respondent’s request for attorney fees is denied,” our order awarding the respondents their attorney fees and costs on appeal was vacated. Appellant’s Br., Ex. A. Thus, he contends that the trial court erred in entering the judgment against him. But he cites no authority to support his contention. And nothing in our Supreme Court’s order suggests that it intended to vacate our award of attorney fees and costs on appeal. That order simply denied the respondents’ request for additional attorney fees for answering Hohensee’s petition for review. We affirm the entry of the judgment against Hohensee.

#### ANALYSIS

As they did in Hohensee’s appeal under cause number 37654-7-II, the respondents request their attorney fees and costs for a frivolous appeal. An appeal is frivolous if there are no

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<sup>1</sup> Respondents filed a motion on the merits to affirm, under RAP 18.14. Our commissioner referred this case to a panel of judges.

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debatable issues upon which reasonable minds can differ and is so totally devoid of merit that there was no reasonable possibility of reversal. *In re Recall of Feetham*, 149 Wn.2d 860, 872, 72 P.3d 741 (2003). We resolve all doubts against finding an appeal frivolous after considering the record as a whole. *Delany v. Canning*, 84 Wn. App. 498, 510, 929 P.2d 475 (1997) (citing *Streater v. White*, 26 Wn. App. 430, 435, 613 P.2d 187 (1980)). And as we did in that prior appeal, we grant attorney fees and costs to the respondents because Hohensee has given us no authority in support of his arguments. Nor has he raised any debatable issue that would create a reasonable possibility of reversal. Much of his briefing reasserts his position, which we already rejected, that he had a right to a jury trial.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Worswick, A.C.J.

We concur:

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Armstrong, J.

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Van Deren, J.